

U.S. SMALL BUSINESS ADMINISTRATION

Regulatory Enforcement Fairness Hearing

Monmouth Junction, NJ

June 28, 2007

PROCEEDINGS

[START TAPE Monmouth Junction, NJ]

MR. KOCSI: Okay. I guess we'll get started. We have a couple people here already that are [unintelligible] or small business matters that we're going to discuss. My name is Jim Kocsi. I'm the district director for the U.S. Small Business Administration here in Newark, New Jersey. And today what we're doing is working with our National Ombudsman's Office [unintelligible] voice for small business. The SBA does a lot of different things. You're probably aware of our loan [phonetic] program, our government contracting program, but we have an active role in advocating on behalf of small business. We have the national advocate; we have the national ombudsman. And one of the issues with the National Ombudsman's Office is we've all recognized that small businesses are sometimes unduly impacted with overly burdensome, or sometimes unfair regulations. This gives them an opportunity to voice their concerns. And it's been about, I guess, close to four, or maybe even five years since we had a previous hearing like this one in New Jersey. The last one was down in Trenton. So I welcome you here, and I want to introduce our deputy national ombudsman, Marty [phonetic] Gold. [Unintelligible] showing up here today. We tried to convince him to come in the night before, but he wanted to drive. He's from Washington, D.C. He's a New Jersey resident, by the way, and [unintelligible] industrial [phonetic] engineer, [unintelligible] New Jersey resident and industrial engineer from NJIT [unintelligible]—New Jersey—Norton [phonetic] College of Engineering. And he's been with the SBA for some time and had a lot of different management positions. [Unintelligible] New Jersey, I've known him previously. I've been an SBA employee for quite a number of years, like many of us have, and we're [unintelligible] proceed with the hearing.

MR. GOLD: [unintelligible], thank you. [Unintelligible]. I want to thank the Middlesex County Regional Chamber of Commerce for providing the space and the telephone connection today. Seated here with me is one of our Regulatory [unintelligible] Board members, who I'll get to in a second. I'm the deputy national ombudsman, and work at SBA headquarters. I was [phonetic] wondering, what is this regulatory enforcement [unintelligible] stuff anyway? What's this about? Who are you guys and what are you doing here? The White House conference on small business in 1995 [unintelligible] one of the results—recommendations came out of that was who do we complain to? Who do we give comments to at the federal government? Who will hear us [unintelligible] federal [unintelligible] unfairness issues in the federal government? And out of that, 1996, the Regulatory Enforcement [unintelligible] stuff like non-retaliation, making sure small businesses speak up for themselves, that the agencies don't counteract and [unintelligible] that way. [Unintelligible] audited

[phonetic] time and time again, unfair manner, those are the types [phonetic] [unintelligible]. [Unintelligible]—the acronym is called SBREFA, the Small Business Regulatory Enforcement Fairness Act, and that's what [unintelligible] regulatory flexibility [unintelligible], [unintelligible] reasonably. [Unintelligible] federal agencies implement regulations that impact [inaudible]. [Unintelligible]. Oh, [unintelligible] compliance [phonetic]. Yeah, the legislation was just passed [unintelligible] supplemental [unintelligible] regulations that impact small business [inaudible] compliance guide in plain English [unintelligible] available to small business before they go out and enforce the regulations. So that's something new that just came out. [Unintelligible] SBREFA, Small Business Regulatory Enforcement Fairness Act, before, but the language wasn't as tight or clear. It was [phonetic] kind of vague and flexible. [Unintelligible] six people in the Office of the National Ombudsman in Washington, many agencies, many regulations out there. [Unintelligible] process [unintelligible] the national ombudsman is required [unintelligible] to receive comments from small business. Most of the comments we see from small business, over 90 percent of them come through the Web. We have a refillable [phonetic] form on our Web site. People put information in, we turn around, 24 or 48 hours, where [phonetic] we get the information out to agencies, and then the agencies are put on the clock, so to speak, as far as timeliness of responding. One of the things we have for the agencies—when an informant [phonetic] feels like they're treated unfairly and they come to us, we look at the comments. We need more information, we ask them for it, and then we do a letter to the agency. We have liaisons with all federal agencies at their headquarters level, and we send a letter and we send a comment. When a result comes out, we can't make [unintelligible] change, anything [unintelligible]. They have their responsibilities and regs. What we are required to do is produce a report to Congress every year. In that, [unintelligible] of interest to many of the agencies, is grades. We grade the agency. One of the issues is on timeliness, [unintelligible], have you been responsive to the comments put out by the small business? [Unintelligible] these six people, which is, I think, pretty smart of the legislation [unintelligible], it allowed us to have a Regulatory Fairness Board. SBA divides the country up into 10 regions. We're allowed to have up to five members of the board from each region. We have the owners, operators or officials of small businesses, so someone who has a comment is not going to talk to bureaucrat Marty Gold. They can talk to a local businessperson in your area. You're lucky today, New Jersey actually has three board members, one [unintelligible] here today, Frank Misischia. And since I haven't put my glasses on to get his bio, I think what I'm going to do is let Frank—we appreciate his service. The terms are for three years and then—so we're constantly going through a turnover period. I want to thank Frank for serving on the board, and turn it over to you [unintelligible] say a few words.

MR. MISISCHIA: My name is Frank Mischia. I am a small business owner. My business is in Fairfield, New Jersey and Princeton, New Jersey. I'm in the printing and graphics business. I was appointed [unintelligible] position a year ago, and Mary said, it's a three-year term. I represent Region II, which is New Jersey, New York, Puerto Rico and the Virgin Islands. My objective, certainly, is to be available and visible for anyone in that region to contact me if, in fact, they need a conduit to get anything done. On the table ahead is my business card and also, some literature on the SBA and the Ombudsman's Office. [Unintelligible], I'm a small business owner. I know potentially what unfair regulations can do to a small business. I'm real sensitive to those things. And as I said, I'm visible, I'm available. I think my e-mail and phone number is also on the small business [unintelligible]. I'm available to help all small business to be part of the process to get something down. As Marty said, you know, if we—if there's an issue that may not be directly RegFair, we'll certainly get that guided through the right process and follow up on it. That's our objective.

MR. GOLD: [unintelligible] New Jersey board member. Thank you, Frank. [Unintelligible] company, based in Newark, called the Writing Company [phonetic]. [Unintelligible] is an attorney in central Jersey. One of the things, also, just business Congress writes its law, and we put out our little pamphlets on, you know, here's regulatory fairness, still a lot of folks don't know that we exist. As far as the federal government goes, roughly 10 years in existence, doesn't mean everybody knows about us [phonetic], so we do a lot. We do a lot of marketing and outreach, as much as we possibly can, and not just sit in the office taking [phonetic] the Web comments. [Unintelligible] events, small, medium, large, all across the country. This year, [unintelligible] 34 events scheduled. [Unintelligible] the ombudsman [unintelligible] was appointed last year by the administrator, through the administration. The ombudsman is an administration position [unintelligible], so they—as the elections come up, that position turns over. [Unintelligible] keep things going in between. What I'd like to do know is—[unintelligible], Jim, [unintelligible] have folks in the room introduce themselves.

MR. KOCSI: Yeah. We have a small group here, so maybe just to reintroduce everyone. I think some people had an opportunity to meet. If you could just say who you are, and where you work, and what your issue is, and we'll start over there with my coworker, Frank Burke.

MR. BURKE: My name is Frank Burke, and I'm with the New Jersey District Office of the SBA.

MALE VOICE: My name's [unintelligible], and I'm with the Newark Area Office of the [unintelligible].

MR. GOLD: [unintelligible].

MS. BUSCO [phonetic]: My name is Joan [phonetic] Busco. I work with the [unintelligible] education.

MR. GOLD: Welcome. Harry, you want to just introduce—

MR. MENTA: Harry Menta, Small Business Administration, [unintelligible].

MR. PATAYAK [phonetic]: Vince [phonetic] Patayak. I'm with the United States Department of Agriculture.

MR. RANTELL [phonetic]: Bob [phonetic] Rantell, [unintelligible].

MS. SMITH [phonetic]: Dominique [phonetic] Smith, Department of Labor [unintelligible], Washington, D.C., the Office of Small Business Programs.

MR. KELLY [phonetic]: Jack [phonetic] Kelly, U.S. Department of Labor, Wage and Hour Division, [unintelligible], here in [phonetic] Lawrenceville.

MR. FARRAH: Adam Farrah with UCEDC. We're a non-profit economic development organization, and we're a SBA [unintelligible] intermediate [phonetic].

MR. COULIC [phonetic]: Bob [phonetic] Coulic. I'm with the U.S. DOL, OSHA, and [unintelligible].

MALE VOICE: [unintelligible]. I'm a local tax preparer [phonetic] [unintelligible].

MR. COFFEY [phonetic]: [unintelligible] Coffey. I'm also with the IRS. [Unintelligible] liaison [unintelligible].

MR. GOLD: [unintelligible], besides us going around the country trying to do hearings, we also do roundtables, public forums [unintelligible] the national level, and to our districts, [unintelligible] local level with chambers of commerce, business trade associations. [Unintelligible] that's where the membership is [unintelligible] issues unique to industry or business, the chambers can get the word out a lot quicker than we can, so we have an ongoing relationship. We had a national hearing recently in Washington, with a diverse group from the National Coalition of Pharmaceutical Distributors, or the Air Conditioning Contractors of America, to the [phonetic] U.S. Chamber of Commerce and National Federation of Independent Business, all speaking on behalf of their membership—and the National Society of Accountants, also—on issues crucial to their industry [unintelligible] in the record [unintelligible] report Congress for this fiscal year.

MR. KOCSI: Maybe the people online, could they just sound off as to who you are and what organization you're with?

MALE VOICE: [unintelligible], Washington, D.C., Office of

National Ombudsman.

MR. KOCSI: There was another gentleman on the line earlier. Hello?

MR. JONES: Hello. This is Johny Jones from [unintelligible] in Princeton.

MR. KOCSI: Okay. Is there anyone else on the line? Just the two individuals, that's it? Okay. Well, Marty, I don't know. How do you want to—

MALE VOICE: [interposing] [unintelligible], sure. [Unintelligible] come up.

MALE VOICE: Then we could [phonetic] [unintelligible] person on the phone next—

MALE VOICE: [interposing] Right.

MALE VOICE: --[unintelligible].

MALE VOICE: Sure.

MALE VOICE: Okay. Whenever you're ready.

DR. KLINE: [unintelligible]. I'm a county [phonetic] practitioner here in South Brunswick, New Jersey. Approximately a year and a half ago, I had an OSHA evaluation of my office, triggered by two disgruntled employees who were fired with cause. They had previously attempted to harm me in various other ways, all of which were rebuffed by the system. I feel as if the motivation here was an attempt to victimize me and harm me out of revenge. Ultimately, I was fined \$750. My understanding [unintelligible] that I was using syringes and needles which were not approved on OSHA's list, [unintelligible], and also, I had a container that wasn't the right color. I don't think that these [phonetic]—I think this represents a problem with my OSHA experience. I don't think it's a problem with OSHA; I think it's a much more systemic problem, and I have seven solutions. Number one, I do believe that there is a bounty hunter mentality associated with all of these governmental agencies. They fund themselves by their fines. This gives, at very best, the appearance of impropriety. That shouldn't be the case. Governmental agencies shouldn't fund themselves by their fines. Number two; disgruntled employees should not be viewed as [unintelligible] avenue for testimony. Disgruntled people shouldn't be given the opportunity to misuse administrative governmental agencies for nefarious purposes or for revenge. If OSHA is forced to use this type of testimony, in my for instance, from the fellow who looked at my office [unintelligible] distasteful [phonetic] and didn't really want to use it, but he was forced to do so by the law. [Unintelligible] if this testimony looks like it's incorrect, for example, if the investigator cursorily looks over the office and finds that the majority of the allegations are false, which is what occurred in my case, that there

should be a mandate that allows, and perhaps even obliges the investigator to end the investigation. Number three, the process shouldn't be intimidating or disruptive. Again, I don't blame OSHA for this. I think there's a process that they have to go through. But I have a 1,000-square foot office with four examination rooms. The process took two days. I'm not so sure that that was an appropriate length of time. Very importantly, the next, number four, I think that government, especially the government in Washington, has an obligation to make regulations that are compliable. There are thousands of pages of regulations that I, as a small businessman, are expected to comply to, for each and every organization of the government. There's thousands of pages of OSHA regulations. There's thousands of pages of EPA regulations. There's thousands of pages of Medicare evaluation and management regulations promulgated by the government and enforced by the Department of Justice. In New Jersey, there's the EPA. There's the Department of Labor on the federal level. There's the Department of Labor on the local level here. There is the Board of Medical Examiners in every state. There's the draconian HIPAA laws, which no one understands, including the Department of Justice. And I've called them and found out that that's true. I shouldn't be punished for non-compliance with the impossible, and I think every other small business feels the same way. Number five, punishments should be proportionate. \$750 was what I was fined as a punishment for having the wrong colored container and for having needles which OSHA didn't have on its list. [Unintelligible] is that if you read through the OSHA regulations [unintelligible] possible, I could be fined \$60,000 for each and every instance of what OSHA feels is an [unintelligible] proper function. That would bankrupt me. I was threatened with imprisonment for non-compliance. I was threatened with criminalization for non-compliance, criminalization that would cause me to lose my professional license, lose my career that I've worked very hard for, very proud of. I think that that type of draconian activity is counterproductive, it's insulting, and it's anti-American. The founders of our Constitution would at least be dismayed if they would [phonetic] [unintelligible] this type of governmental heavy-handedness promulgates and permeates the regulatory atmosphere that we live in today. There should have been no punishment for what I did. I'm not a criminal. It should have been educational only. Number six, the relationships to businesses should be changed, and that requires a paradigm shift. The current paradigm, I believe, for most people, for most of these agencies, number one, involves some element of a shakedown. I've addressed that before. I know it's insulting. I apologize, but they self-fund this way. That has to go away. Number two, all business owners are not criminals. We shouldn't be looked at in the same way as someone who's done something that's antisocial. Number three, all business members seem [phonetic] to be looked at as being guilty until proven innocent. That's a very bad paradigm

[unintelligible] perspective. And the last one is that we have to be punished for our misdeeds. That's a legal [unintelligible], and that needs to be done away with. The appropriate paradigm of thinking should be get governmental agencies to be collaborative. If we do something wrong, for example, with physicians, the best way to deal with this is by saying, "Dr. Kline, you have a great reputation in your community. The people in this town trust you and believe in you. How could you use these needles which are incorrect"? That would be far more effective than fining me. Mentoring, obviously, would be appropriate, acting in good faith. For example, if you really feel that I'm using the wrong needles, why didn't you just bring in a box of correct needles and say, "We'll get rid of these needles for you that are bad. Here's a box. Here's a couple places you can go buy it from. How 'bout if you work with us [phonetic] in this sphere [phonetic] from now on"? Number seven, social consequences, and I'm saving this for last 'cause this is the most important part. The driver for OSHA, and for the rest of these organizations, from a philanthropic perspective should be the benefit to society, period, nothing more, nothing less. The social consequences that are negative should never outweigh the benefits. In my case, what happened was, I get paid, at best, \$4 for drawing blood. It costs me at least \$12 to draw blood at any venipuncture. I lose money when I draw blood. Why do I do it? I have infirm patients with morbidity and potential mortality that I try to treat every day. I need data in order to treat these people. In order to get the data, I have to draw their blood and get the blood results. So I was drawing blood in my practice for the [unintelligible] reason of trying to help my sick patients. If I have to face criminalization, jail time, the loss of everything I've ever made in my life, humiliation in the public, et cetera, I'm not going to draw blood, and that's exactly what's happened. I no longer draw blood in my practice. My patients don't get the information that we need. As a consequence of that, there's increased morbidity and mortality, I believe, in my patients for the untimely way in which they have to give blood. My old patients can't go to a Quest or LabCorp drawing facility and fill out the form for the very busy people there who won't even talk to them. As a consequence of OSHA's invasion of my office, we don't draw blood. My patients have suffered. [Unintelligible] the benefit of having a correct-colored container [unintelligible] having my patients not get appropriate medical care. Social engineering needs to be thought about [unintelligible]. And that's all I have to say.

MALE VOICE: Thank you for your testimony. Do you mind if ask a question?

MALE VOICE: Sure, go ahead.

MALE VOICE: When you say you were threatened, what form did that take?

DR. KLINE: [unintelligible] documentation that OSHA gave₈

me. Now, to be fair, when I asked the fellow from my—who came into my office about that, he said the likelihood of me being fined and imprisoned and everything else would be quite low. But I said, “Is it low enough that you would say it’s an impossibility”? He would say, “Absolutely not.”

MALE VOICE: [inaudible] Kline, we appreciate your testimony. It was very well structured. The concern that we have in our region here is getting the information out to all small businesses. Had you been more aware of our office and our presence here, we could have circumvented an awful lot of that. And it’s our obligation to get that information out. I, for one, had a situation not to long ago, with the Hour and Wage, and knowing that this existed, I was able to cut to the chase, get to the process, and not go through this laborious issues and process that you went through, the threats, the guilty ‘til proven innocent and so forth. And I think that’s the whole purpose of the Ombudsman’s Office. We probably—and, Marty, you can attest to this—could have avoided you a lot of this embarrassment, a lot of the process, had you been aware of that prior to. There is an instance [phonetic] on our Web site that talks specifically about a regulation that, prior to it getting to legal, we were able to step in and eliminate the fine, eliminate the issues and so forth. So basically, your concerns are real. We understand that. I, for one, am not pleased at the fact that you’re not able to draw blood and help your patients at this point. There are the labs that do that, but we realize that there’s a lot of inconvenience to that. So, as I said, for anybody listening, and we’ll try and probably promote that even greater, that’s what our office is all about, is trying to small business before they get to that point.

MALE VOICE: [unintelligible].

DR. KLINE: Right here in this building is the New Jersey Osteopathic Association. Professional people, such as myself, don’t even know that you exist. You might want to work with these types of folks, these organizations, business most professional people belong to some organizational structure, and just say, “Hey, would you be willing to advertise us”? They would be happy to do it for free. I know the Medical Society would be.

MALE VOICE: [unintelligible] valid point [unintelligible]—

MALE VOICE: [interposing] [unintelligible] my next comment. I was going to ask you if you had—if you belong to some medical grouping, association that we could get information to.

DR. KLINE: Well, every hospital disseminates information to their patients, and they would love to talk to people like you. [Unintelligible] I’m on staff [unintelligible] University Hospital and the University Medical Center at Princeton. I know that people there would [unintelligible] this office. [Unintelligible] they don’t have to [phonetic], but [unintelligible]. The issue is that we don’t know about

you, okay. You're not on our radar screen. I've never seen anything about you in any of the literature. I mean [phonetic], I read one journal a day. I haven't seen anything about you [phonetic].

MALE VOICE: [unintelligible] the key [phonetic] [unintelligible] not necessarily the hospitals, the associations [unintelligible] associations of the hospitals [unintelligible] New Jersey [unintelligible]—

MALE VOICE: [interposing] Well, at UMASS—

DR. KLINE: [interposing] Each hospital disseminates information to physicians, and the overriding medical associations—there's two of them in this state, the Osteopathic Association, which is housed right above you in this building, and the New Jersey Medical Association, which is in Lawrenceville, New Jersey. They communicate with the members on a routine basis. And then, I think, you know, there's attorney's, they have their own groups, and accountants. We all suffer from the same type of thing, although I think that probably physicians suffer much more because we have blood-borne pathogen issues for OSHA. But this is beyond OSHA. The EPA and the Department of Labor, and all the rest of us suffer from these mandates. And it's a double-edged sword because I don't think anybody in their right mind would want these organizations to go away. We'd have anarchy without them; we'd have an unjust society without them. On the hand, we'd like to be treated more fairly and have a system that's more efficient.

MR. MISISCHIA: We, certainly, at our national meeting in September, we'll put that in as a major issue. We've tried to promote more of that to all the small business owners in this state and in New York, specifically, and, you know, that's one of the objectives, we have to get that information out so that [inaudible] have people like yourself, small business physicians and so forth, avoid that mess [phonetic]. [Unintelligible] I, for one, am involved in the Printing Industries of America, and they also were not aware of and [unintelligible] made them aware of. We're dealing with more local issues, but there are some state issues [unintelligible] federal issues that are important.

MALE VOICE: [unintelligible] all the board members from across the country to Washington to get their input for our report to Congress, [unintelligible] issue, certainly, getting the word out is always a big one.

MALE VOICE: Appreciate your testimony. If you'd like to submit something, give us that, or submit so we can [unintelligible] comment and—

DR. KLINE: [interposing] Where would I submit it [phonetic]?

MALE VOICE: You can do it through our Web site. You can give it to me, unless you wanted to, you know, do something else

with it. Let me give you my business card.

DR. KLINE: Sure.

MALE VOICE: Our Web site to actually submit stuff is ombudsman, O-M-B-U-D-S-M-A-N, @sba.gov.

MALE VOICE: I believe he—

MALE VOICE: [interposing] Oh, he submitted already?

MALE VOICE: --submitted online—

MALE VOICE: [interposing] Oh, okay.

MALE VOICE: --today, right?

MALE VOICE: [unintelligible] did.

DR. KLINE: I submitted something, but I didn't submit the details. I'd be happy to do that, but this is just a rough outline.

MALE VOICE: Okay. If you would also, Dr. Kline, maybe you can take one of those copies and my card.

DR. KLINE: Okay.

MALE VOICE: Okay. And that's a breakdown of the mission for the Ombudsman's Office.

MALE VOICE: We're giving out advertising in the back, and maybe some of the associations—[unintelligible] pamphlet [unintelligible] the back [unintelligible] some associations you belong to, but also a good example, [unintelligible] 2005, our report to Congress, you can see the type of issues that come up. Our '06 report is in clearance now [unintelligible], but that's in the back. Feel free to take.

MALE VOICE: [unintelligible].

MALE VOICE: Oh [phonetic], [unintelligible].

DR. KLINE: I thank you for the opportunity to—

MALE VOICE: [interposing] Thank you.

DR. KLINE: --[unintelligible] testimony.

MALE VOICE: Thank you for coming [phonetic]. Mr. Jones? Johnny Jones?

MR. JONES: Yes, I am here.

MALE VOICE: Okay. Feel free—if you want to give some testimony, go ahead, sir, or raise your issue.

MR. JONES: No, I was—I'm not prepared [phonetic] [unintelligible] testimony. I was listening to the program.

MALE VOICE: Oh, okay. All right.

MR. JONES: Thank you for that.

MALE VOICE: [unintelligible] Adam.

MALE VOICE: Adam. Adam Farrah from [unintelligible].

MR. FARRAH: Thank you very much. My issue isn't one of a matter of life and death, but I think it's important nonetheless. Again, my name's Adam Farrah. I'm the vice president of UCEDC, also known as the Union County Economic Development Corporation. We are a non-profit organization and we provide a variety of services to the small business community of New Jersey. We are also what is termed a intermediary under the Small Business Administration's Microloan Program. I think we've been so probably since 1995. We're one of, I guess, several hundred microlending intermediaries across the country, and what we do is we borrow money from the Small Business Administration and we re-lend it to small businesses throughout New Jersey. With this program, the SBA requires that intermediaries, such as ourselves, operate two bank accounts. One's a microlend [phonetic] revolving fund account and the other is a loan loss reserve account. These two funds really are the only pieces of collateral that the SBA has to protect themselves on these particular deals. The issue is that the Code of Federal Regulations states that these funds must be maintained in interest-bearing deposit accounts. Certificates of deposit are actually excluded from that. That concerns us because we have a lot of idle cash in this program, both in the reserve fund and the operating fund, that are sitting there, and if we can get greater interest income on these, it actually increases—or reduces—the risk to the SBA, and it also allows extra generation [phonetic] of funds that can be used on the SBA loan, or it could be even used to help operate our programs, but they won't allow us to do that. Now, this could be significant dollars. When you're talking, you know, over \$1 million in funds sitting idle, a 1 or 2 percent interest [unintelligible] could mean \$10,000, \$20,000, \$30,000 of extra dollars being generated per year that, really, could be used to help everyone involved. It's kind of a no-lose situation, in my opinion. Now, I've brought up this issue a few times, and I've been told that there's a couple of reasons why they excluded certificates of deposit. One was that there was concern about liquidity. Should an organization, an intermediary default, they want to be able to go in and liquidate funds as quickly as possible, and there's some concerns that with certificates of deposit that you couldn't do that. That's actually not true. They can be liquidated at any time. The worst thing that could happen is you might lose some of the interest income for the period, but that's it. You're not going to lose principal, so I really think that that's a non-issue. The other reason we were told was that the paperwork that we have references an account number, and now, if you had a CD there would be other account numbers to keep track of. But the way most banks work today, the way most of the closings that I have on this program is there's on master bank

account number, and there's usually several funds that are, you know, contained underneath of it and are linked to it. So I really don't think it's a paperwork issue. I don't think it's a liquidity issue. I think these are regulations that were put into place 10, 15 years ago that really aren't keeping up with the times in terms of how, you know, things work in the banking industry and everything else. So it's an opportunity for several hundred intermediary lenders across the country to have more income coming in to them [phonetic], and also helping SBA by increasing the value of their collateral. So I'd like you to give it some thought. I don't have anything that I can hand you today other than the, you know, part of the Code of Federal Regulations that discusses that particular requirement, but I will submit something on your Web site if you prefer that I do that.

MALE VOICE: Yeah, what it does is—I forgot to mention to Dr. Kline—is that there's [phonetic] an important question [unintelligible] to be checked, that is if you want the issue raised but not talk about your specific case, 'cause we have to honor confidentiality. We get comments from folks that really are pressed, but they don't want their name used. We'll raise an issue with an agency, not—or, if they want to, we'll deal with the individual case [unintelligible]. Yeah, so if you want to submit a Web site, give [phonetic]—yeah, 'cause [unintelligible] got lots of CFRs, Code of Federal Regulations, at the office, so I don't need a copy of that, but definitely your comments on the issue. I have a couple questions [inaudible].

MALE VOICE: Sure.

MALE VOICE: When you said they, [unintelligible] didn't deal with it [phonetic], who—you're talking the [phonetic] SBA headquarters?

MR. FARRAH: Just—yeah, different people in the microloans departments, both here and Washington, who I've spoke to about the issue in the past have said, "Well, the regulations are such, and this is why."

MALE VOICE: Let me add in a little clarification on that. Both Adam and Maureen, the president of the UCEDC, contacted me on this, probably, maybe two years ago, and I made a phone call to our SBA headquarters to ask. They referred me to somebody in the counsel's [phonetic] office, and the answer was essentially what Adam had indicated, that, "Well, that's the way it's written, and there's nothing we can do about it." And I passed that along to Maureen and Adam a couple years ago, but the important thing is, like Adam mentioned, there's two or three hundred intermediaries throughout the United States. If we just make a simple change to our own regulation here, we're not only helping the intermediary be more helpful to our small business clients, but we're actually protecting our own selves by

having additional income flow to pay off the debt that they have to repay to us. So, to me, it seems—I mean, I speak on behalf of myself, as an individual, but I feel that the agency should really take a good look at this and revisit it because it just doesn't seem to make too much sense to me. You're talking about today, in a depository money market account, getting something like 0.5 or 1 percent interest. If they put it in a CD, you're looking at, like, somewhere around 5 today. I mean, it's a—you know, it's a big difference. And I support the organization's approach on this because I think it's totally correct.

MALE VOICE: Another question I had, if [phonetic] the only documentation guiding it is the regulation, is there, like, a compliance guide? Are there guidelines [unintelligible]—

MR. FARRAH: [interposing] If there are, I'm not aware of them. All I know is what's contained in the Code of Federal Regulations.

MALE VOICE: Under the SBA [unintelligible]—

MR. FARRAH: [interposing] Under the SBA, right.

MALE VOICE: --13-CFR?

MR. FARRAH: Right, right.

MALE VOICE: Is there an area on the Web site that can carbon copy? For instance, I'd like copies of these so I can follow 'em up from the region level.

MALE VOICE: Copies of...

MALE VOICE: Copies of your comments, and once you put it through.

MALE VOICE: [unintelligible] is there. If you would also forward that to me—

MR. FARRAH: [interposing] I'd be happy to.

MALE VOICE: --[unintelligible]. One of the things that we have said in the past is that we have within X amount of days respond it, follow up and so forth. We'll certainly do that.

MR. FARRAH: Appreciate it.

MALE VOICE: Nicholas Owens [phonetic], the ombudsman, [unintelligible], of course, the national ombudsman, according to the legislation under SBREFA. But the administrator who came onboard within the last year also [unintelligible] the SBA [inaudible] certainly would fall into that because I think she was [phonetic] [unintelligible] loan programs, [unintelligible] contracts, et cetera, certainly they should [phonetic] be looked at [unintelligible].

MR. FARRAH: Great program, we just want to make it a little

better.

MALE VOICE: Okay. Thank you, Adam. [Unintelligible] one more question [unintelligible] chamber, right, [unintelligible] county [unintelligible] chamber?

MR. FARRAH: We're not—no, we're not a chamber. We're a 501c3 non-profit. We [phonetic] [unintelligible] variety of services geared to [unintelligible] programs.

MALE VOICE: [unintelligible] getting to, did you know about the ombudsman—

MR. FARRAH: [interposing] I did.

MALE VOICE: --and the SBREFA?

MR. FARRAH: Yeah.

MALE VOICE: Okay. Great.

MALE VOICE: Jim Kocsi [unintelligible].

MALE VOICE: All right, Jim, one for you.

MR. FARRAH: Thank you.

MALE VOICE: Thanks, Adam.

MALE VOICE: Thanks, Adam.

MR. FARRAH: Thank you.

MALE VOICE: I know we have—Harry, we have another individual that's scheduled to come in at 11:00 on the phone.

MR. MENTA: Yes.

MALE VOICE: All right. But there's a couple of other people that—

MALE VOICE: [interposing] Joined us.

MALE VOICE: --joined us. The Somerset Business Partnership, are you here to represent some members with issues?

MALE VOICE: Not particular issues, just [unintelligible] represent the member overall so we can [unintelligible] [inaudible] [unintelligible].

MALE VOICE: Do you mind [phonetic] if I ask you the same question I've been asking folks? As a business group organization, business service organization, have you heard of [phonetic] the ombudsman [unintelligible] federal level [unintelligible]—

MALE VOICE: [interposing] Not by me personally. In my organization, [unintelligible], but personally, I didn't know about it until hearing about [unintelligible].

MALE VOICE: [unintelligible] we apologize putting you on

the spot. We don't want to put you on the spot. I'm putting you on the spot. Are there any issues that, you know, in your daily, monthly or [unintelligible] that come up about federal agencies at all that you can think of?

MALE VOICE: Yeah. Well, our organization is multi-faceted, and so we have several different divisions within the organization, so within each of those divisions—I actually run the small business part of our organization. So we also have, like, a public affairs division and economic development, things like that, and they do come up in all these different divisions. Right now—and Jim's been working with us, as have others from the SBA recently, and some of the federal [unintelligible] very involved working with business owners that were affected by the nor'easter floods in April, in two particular towns, in Bound Brook and Manville. And we happened to get a corporate grant from [unintelligible] Building America Program. It's not tons of money, but my name's on the grant. I'm just receiving the application, and I get calls every day by business owners, "What can you do? What resources? I'm not going to make it through the summer." I mean, those are the issues. I know SBA has—through one of our members, they've arranged, actually, a field office right in Bound Brook and, you know, FEMA—since FEMA's left, you know, we've been—we've had meetings in our offices—what is it? Every two weeks, Jim, [unintelligible]—

MR. KOCSI: [interposing] Yeah, [unintelligible] two [phonetic].

MALE VOICE: --it's been [phonetic], basically, since the floods, which is getting the state agencies and federal agencies together, but the small business owners that were affected by the floods, they have all kinds of issues, you know. Just trying—you know, these are the same people that were hit in 1999 [unintelligible] things like that, so they're [phonetic]—I mean, those issues are countless. And I'm—like I said, my name's just on a grant application, and to really guide those people is a challenge currently.

MALE VOICE: [unintelligible] speaking to other employees of the Somerset Business Partnership over the last couple months with regard to the flooding. You may want to get back in touch with the SBA, or maybe even through the Ombudsman's Office, because, you know, the name of the game is getting the money quickly to people and helping them to recover from these disasters. And I know there's been a number of loans approved, but at times, sometimes there are delays in getting [unintelligible] first [phonetic]. So if you still [phonetic] encounter any kind of issues from business owners of individuals that they feel that they're really getting unfair treatment or are getting with some inordinate amount of [unintelligible] or paperwork to close their loan, reach out to us, because that is a issue that's at [phonetic] the highest level of the administration, predominantly because of the

affects of Hurricane Katrina and Rita a couple years ago. The agency, SBA, as well as all other federal agencies, pretty much dropped the ball in terms of delivering what we were supposed to deliver, and so we're very in tune to being responsive on that disaster assistance. So if you do encounter anything, especially from business owners, you know, definitely reach out to us and we'll see what we can do to break the logjam. And if we need to get the Ombudsman's Office involved—

MALE VOICE: [interposing] Well, we've been getting good [phonetic]—

MALE VOICE: --[unintelligible] as well.

MALE VOICE: --in the sense of city [phonetic] agencies, more sensitive to disaster loans not being approved and not dispersed. We've gotten a lot of calls from the Gulf Coast area. We walk down a floor down to the Disaster Assistance headquarters, and they've been giving us, sometimes, same-day turnaround, finding out what's going on.

MALE VOICE: And likewise if there's issues with regard to the Corps of Engineers, with the funding, [unintelligible] the remediation work and levies that were supposed to be built 5, 10 years ago to not have this occur again, you know, that may be something that the Ombudsman's Office could be aware of as well, and they may be able to point someone in the direction that may speed up the process.

MALE VOICE: [unintelligible] membership also, since our boards are constantly turning over, [unintelligible] business service organizations or they may belong to—people are interested in serving on the board, voluntary capacity. Obviously, we pay travel for the folks, once approved, [unintelligible] the regular [phonetic] system [unintelligible]. But the last two people [unintelligible] named to the board, some had major issues, [unintelligible] Board of Protection, EPA and some hot button issues. Then they said, "Okay. Thanks for helping me. What can I do"? People have joined the board, and it's a constant turnover. Right now we have about 15 vacancies, nationwide, on our board. [Unintelligible] and our Web site, basically, is chock full of information, [unintelligible] as transparent as we could be. All our proposed events and past events are on a calendar on our Web site. You can click on it, once they fix it, and you can look at previous transcripts of hearings that have taken place across the country. You can also see our federal agencies are very supportive, and are also sensitive to the ombudsman and issues and the [phonetic] report to Congress, [unintelligible] folks are, you know, coming to the hearings also, or calling in.

MALE VOICE: All right.

MALE VOICE: Ma'am, were you representing a business organization as well?

FEMALE VOICE: Our organization is Devoy [phonetic] Associates. We're a general agency, and what I do all day is talk to employers [unintelligible] help employers through some of the wonderful maze of federal regulations like COBRA and [unintelligible] Medicare. I've had a lot of dialogue directly with [phonetic] [unintelligible] and I feel that [unintelligible] street level with some of these regulations and trying to expect an employer, A, to know about [unintelligible], and, B, not get in trouble with all the fines and the people not having coverage with COBRA. And the [unintelligible] Medicare is so extremely difficult [inaudible] in order [phonetic] to keep track of especially your place [phonetic] and your [unintelligible]. [Unintelligible], unfortunately, but, you know, you have your little place and they barely—you have all worker bees. The employers are worker bees. They don't have an HR department. And trying [phonetic] make them aware of the regulations and be able to comply with them in [phonetic], especially Medicare [phonetic], is really [unintelligible] impossible [phonetic]. So that's my struggle, to try and help them, and in order to [phonetic] help them [unintelligible] [inaudible] [unintelligible] down to the street. The way things are written doesn't work.

MALE VOICE: I think I mentioned it before you came in, just recently a piece of legislation that was added to the war supplemental bill [unintelligible] enhance compliance assistance for small businesses, requiring agencies that produce, promulgate regulations that impact small business to come out with plain language what it is that they're trying to regulate, make it available. And the issue—

FEMALE VOICE: [interposing] [unintelligible] compliable, if that's a word.

MALE VOICE: Say that again.

FEMALE VOICE: The ability to comply with something.

MALE VOICE: Yeah, yeah, yeah, exactly. One of the things—we grade agencies, we in the Ombudsman's Office, and we're required to do it. [Unintelligible] do it because we like to do it. But we're required to rate agencies on their compliance assistance efforts, [unintelligible] on the comments or complaints. [Unintelligible] the word complaint doesn't show up on our legislation. [Unintelligible] comment [unintelligible]. But certainly the—I often wonder, the small mom and pop shop that don't belong to a trade association, chamber of commerce, where do they—how do they know of rule change [phonetic]?

FEMALE VOICE: Exactly [phonetic]. Or even just—

MALE VOICE: [interposing] To begin with, let alone change.

FEMALE VOICE: I say, "TEFRA", and they're like, "Huh"? Frightening because there's a [phonetic] financial impact

[unintelligible] with COBRA there is fines, people are [unintelligible], and that can be fixed. But with TEFRA, it's a matter that if Medicare pays for something [unintelligible] should have [unintelligible] employer, say, "You owe me \$17,000 because this was reported incorrectly," or the carrier thinks they're primary and they're not, they want their money back. So this is a huge financial impact.

MALE VOICE: Well, perhaps the companies that you represent and deal with, may want to make them aware of that ombudsman's e-mail address, and they may be able to enter in, after the fact of today's hearing, issues that they've faced that they've had difficulties with, and with the hope that that gets raised up to a higher level. [Unintelligible]—

MALE VOICE: [interposing] [unintelligible] another office within the Chief Counsel for Advocacy. There's a whole office of advocacy [unintelligible]. The way I compare our—I call them wholesale and we're retail. Retail, the individual business has a complaint against a federal agency. The Chief Counsel for Advocacy, they work on behalf of industries [unintelligible] small business. [Unintelligible] agencies have to look at regulations before they go into place and see what the impact is going to be, and advocacy, within their [unintelligible] legislation [unintelligible] they can go to a court on behalf of the industry. [Unintelligible] themselves, [unintelligible] advocacy can say, "Wait a minute. This doesn't make sense."

FEMALE VOICE: [unintelligible].

[crosstalk]

MALE VOICE: [unintelligible] sba.gov.

MALE VOICE: Our regional advocate that represents Region Two here in New Jersey is Christine Serrano Glassner. I'll give you my business card, and if you give me yours, with an e-mail address, I'll e-mail you the contact for Christine.

FEMALE VOICE: Excellent.

MALE VOICE: She's [unintelligible] our New York office, but she comes to New Jersey quite frequently. As a matter of fact, she would've been here today but she had a previous commitment.

MALE VOICE: [unintelligible] a speech and everything else, but [unintelligible]. But one of the things I was going to say, which I didn't before, I'll say now 'cause it kinds of comes up in the context is one statistic. It is estimated that federal regulations alone cost small businesses with fewer than 20 employees \$7,647 per year, per employee, 45 percent more than it costs a large company of 500 or more. That's from [unintelligible] Advocacy, and they have a lot of stats on that, kind of back up [unintelligible]. Anybody else join us on the line?

MS. MARSHALL [phonetic]: Yes, Melissa [phonetic] Marshall from EPA.

MALE VOICE: Hello, Melissa.

MS. MARSHALL. Hi. I was actually here at the beginning, but had failed to un-mute myself in a timely fashion.

MALE VOICE: You didn't read the regulations on that, Melissa.

MS. MARSHALL: I didn't. I failed.

MALE VOICE: [unintelligible].

MS. MARSHALL: I'm with EPA headquarters in the Office of Enforcement and Compliance Assistance.

MALE VOICE: Are there any hot button issues for New Jersey? Melissa?

MS. MARSHALL: Not that I—I'm thinking. Not that I know of, but just in general, I always like to tell people that EPA has huge amounts of compliance assistance on its Web site, which is epa.gov/compliance, on many topics of particular interest to small businesses. In particular, we have what we call centers, which are concentrations of information from the government, from states, from academia, from all over, and one of them is with respect to printing. So I highly recommend you check out the Web site.

MALE VOICE: Are all your guides on the Web or do you actually print little brochures?

MS. MARSHALL: No, we also print brochures, which are—can be a pain. I was just touting the Web site business it's easily accessible and has—I mean, it has massive quantities of information. It has, you know, manuals, checklists. It has—you know, for many of these, you can look—it'll also send you to the information for your particular state, you know, for compliance with the state regulations in that area. We also—I know that we also conduct workshops and do training manuals and all that sort of thing. For New Jersey, EPA's regional office is in New York City, and they can—if you contact them, they can tell you what they have going on, specifically with respect to compliance assistance.

MALE VOICE: [unintelligible].

MS. MARSHALL: We even do site visits to help.

MR. MISISCHIA: Melissa, this is Frank Mischia. Can I get that Web site again? I didn't quite get it.

MS. MARSHALL: Of course. It is www.epa.gov/--

MR. MISISCHIA: [interposing] Again? DOC [phonetic]?

FEMALE VOICE: GOV, GOV.

MALE VOICE: GOV.

MS. MARSHALL: GOV, GOV. I'm sorry.

MALE VOICE: Forward—right?

MS. MARSHALL: /compliance.

MR. MISISCHIA: Just a question, Melissa. Have you, in the past, been in touch with Vicki Keenan [phonetic] from Printing Industries of America?

MS. MARSHALL: I actually am on the enforcement side of shop, so if she's been in touch with complaint issues, it might have been with our compliance people.

MR. MISISCHIA: Okay.

MS. MARSHALL: But if I—just one moment here. Let me go to... Just hold on one second here be I'm—my machine is slow. I wanted to give you the exact Web address for the printing. Well, let me give you my telephone number. You can call me.

MR. MISISCHIA: Good.

MS. MARSHALL: It's (202) 564-7971. The machine is just very slow in connecting.

MALE VOICE: Thanks, Melissa. Your phone number will be in the transcript then [phonetic].

MS. MARSHALL: That's fine. Always happy.

MALE VOICE: We're kind of, like, treading water for a little bit here, 'cause someone's going to call in at 11:00, the time they had available. So we've got about five minutes.

MALE VOICE: Is Jim in the air? I have a question, and I need Jim in the air.

MALE VOICE: In the room? [unintelligible] be right back. Yeah, by the way, the ombudsman, we just—the way the legislation says is that we can take comments from small business concerns, as defined as—small businesses, of course—small, non-profits that are not dominant in your field—so the way I characterize that, not Red Cross and not National Geographic—and communities that represent a population of less than 50,000. In my three and a half years in the Ombudsman's Office, there's only one town wanted to actually testify. Actually, the town of Lubbock wanted to, but they exceeded the population [unintelligible], so a local community [phonetic] came in, I believe it was [unintelligible], mercury, something in the groundwater, if my memory serves me correctly. So it's not just small businesses. Any of the other agencies want to say something? We gave Melissa

airtime.

MR. SABATINO: By the way, this is Sabatino.

MALE VOICE: Oh, hello. I was just going to ask if anybody else joined us.

MR. SABATINO: Yeah. I joined you earlier. I had a bad connection, I had to dump off and then back on, and I have, like, other people in my office hearing all this, other small businesses.

MALE VOICE: Okay. [unintelligible]—

MALE VOICE: [interposing] [unintelligible] just trying to call [unintelligible]—

MALE VOICE: [interposing] Jim was just trying to call you, see if you were available.

MR. SABATINO: I was here, Jim. What do you mean, you were trying to call me? You always call me when you need something.

MR. KOCSI: Hello, Tony. This is Jim. I was just trying to give you a call thinking that maybe you lost track of the time or whatever. But anyway, you're on, so we're glad to have you hear.

MR. SABATINO: Thank you. You want to hear my gripe?

MALE VOICE: Your comment? Sure.

MR. SABATINO: Well, first of all, for the rest of the gang there, I am a manufacturer, woman-owned small business. My wife is here with us, and she owns the majority of the business, plus my cash. Anyway, we are a manufacturer, we're an engineering firm. We've been around for a long, long time. We're electronically orientated. Our biggest competitors are huge corporations like Northrop, L-3, company called DRS—huge dogs. And each time we compete with them, we generally do okay. We find, though, that the Navy and other military groups, through shipyards or other large corporations, where they give contracts out, like Raytheon or Lockheed or somebody of that nature, they are telling them that they no longer want them to go out and buy products which support a major system. I'll give you an indication. Lockheed ships systems builds a major system for a ship, very well classified, secret. We supply them the power on a number of components. All of a sudden—if I take Northrop, their ship systems, Northrop has enough of their own companies within their structure that can probably take the contract that we would have and build it themselves. On each occasion, when Northrop tries to compete with us, we beat them because we are small, low overhead, we know what we're doing, and we can get the job done. But under this new situation, we may be exempt, as well as other small businesses, from bidding. I don't know what SBA can do about this, because it's a package—what they want now is they want to buy only packages that support major equipment that goes aboard a ship, or in a tank, or a truck, or what

have you, and fully tested, and ownership stays within the company that delivered that packaged system. And they will test it as a unit, and so it will be installed knowing that that system works with all the components that they require to service it. And we are running into this problem right now.

MR. MISISCHIA: Tony Sabatino?

MR. SABATINO: Yeah.

MR. MISISCHIA: This is Frank Misischia.

MR. SABATINO: Yeah.

MR. MISISCHIA: This is Tony Sabatino from the old Bogue Electric?

MR. SABATINO: Correct. I'm still alive. Remember, we were supposed to die a long time ago.

MR. MISISCHIA: Okay. Tony, I represent Region Two for the SBA Ombudsman's Office. It's been a long time since we've spoken.

MR. SABATINO: Yep.

MR. MISISCHIA: I was just telling Marty Gold and Jim Kocsi that I'd like to recommend that maybe we get together and, in more detail, understand a little bit about the comments that you have, and possibly enable you to—and get to the Ombudsman's Office to identify exactly what it is to try and identify the process or the issues so we can proceed—we can help you proceed with that.

MR. SABATINO: Okay. Appreciate that. I'm available.

MR. MISISCHIA: Okay. You're at the same number?

MR. SABATINO: Yep. I'm the last on the list; 108's my extension.

MR. MISISCHIA: Okay. You remember me, don't you, Tony?

MR. SABATINO: Yep. You were a pain, but yeah, I remember you.

MALE VOICE: That's why we got him on the board.

MR. MISISCHIA: Thank you, Tony.

MALE VOICE: Thank you for calling in, [unintelligible].

MR. SABATINO: Yep. I've got other people here. They don't seem to have many issues, but, you know, one's a—one manufactures vitamins of all sorts, and so forth. That's Caughthy [phonetic] Formulation. [unintelligible]—

MALE VOICE: [interposing] [unintelligible] anybody else with you, you made mention of that that you may actually have some other companies.

MR. SABATINO: Yeah, I got six companies here.

MALE VOICE: You can feel free to put them on. This is their opportunity.

MR. SABATINO: Yeah. Well, they always talk to me, and I usually shoot 'em out to you guys, Jim, for their questions answered.

MALE VOICE: So they're not there with you at the present time?

MR. SABATINO: Yep.

MALE VOICE: Okay. [unintelligible]—

MR. SABATINO: [interposing] I've got other issues, and I'll just wait to speak to you guys about it.

MALE VOICE: Okay. I'll be in touch with you, Tony. I'll reach out to you and we'll schedule a date and time that's convenient.

MR. SABATINO: Thank you.

MALE VOICE: Okay.

MALE VOICE: Thank you for calling in.

MR. SABATINO: Not a problem.

MALE VOICE: Did anybody else join on the line?

MR. PARIKH: Yes, I did. Rajesh Parikh joined in.

MALE VOICE: Okay. Nice to have you. You have the floor, if you could just identify yourself and your company.

MR. PARIKH: Sure.

MALE VOICE: 'Cause we're recording this, and it'll eventually show up in the transcript.

MR. PARIKH: I understand. My name is Rajesh Parikh. I'm calling from Nexagen Networks, N-E-X-A-G-E-N, Networks. We're basically a AA [phonetic] certified small business. We just got our certification in August. And my role is [inaudible] development [inaudible] engineering [phonetic] efforts within the organization. I was going to go straight into the issues. I sent some e-mails to Harry regarding the issues that we are seeing in the marketplace for small business. We specifically provide services, currently, to Department of Defense, only specifically U.S. Army, Fort Monmouth, New Jersey, and we have looked at other opportunities outside of the Fort Monmouth community. And I'm actually dialing in from Aberdeen Proving Ground [unintelligible] issues take place between Fort Monmouth and Aberdeen Proving Grounds. I sent an e-mail. There are four areas of concerns that I have seen recently, as we look at multiple IDIQ contract awards. Across the DOD spectrum, what we have seen is that that award is limited to five or six companies, as the small business

seems to be—it's much harder for small business to penetrate [unintelligible] or convince the program managers to look beyond the IDIQ vehicles with those five primes [phonetic] to get to a small business for a direct contract. We've seen, last year, for just example, on one specific opportunity Strategic Services Sourcing contract, they awarded \$2.8 billion on that contract. We have heard that \$800 million went to small business, but if you look at some of the small businesses, most of that \$800 million was passed onto, probably, larger companies as a backend supporting a smaller firm. So we are seeing a lot of challenges there. Second is we've seen government bundle a lot of propriety hardware with predominantly COTS acquisitions, when 90 percent of the acquisition was COTS, 10 percent was proprietary hardware for interoperability and interfaces for legacy interoperability. We've seen them bundle that into one, and preventing anybody else from participating in any way toward meeting the government's requirement. And third element is what we've seen—is the OCI issues associated with large vendors in the DOD space, such as—you know, when you look at companies like General Dynamics, Northrop Grumman and Lockheed Martins of the world, they participate on both spectrums. They participate on the services side of supporting the program managers, and [unintelligible] on the production side and hardware side. However, they have different divisions and claim [phonetic] OCI—you know, or submit mitigation plans for conflict of interest, and they're able to participate on both sides of the spectrum, which to me does not make sense, and it's a challenge for a small business to compete against a Lockheed Martin or a GD on the services side. So my real point, too [phonetic], is those are the three or four focus areas that I think are concerns, and they're not just concerns as I speak to you, as a small business. I've talked to other small business who have been in the industry for four or five years, and what their experiences have been, and their experiences have been similar, that these IDIQ vehicles to four or five primes prevents small business from getting into program management jobs and getting direct contract vehicles within the organizations. Those are the three areas of concern that I wanted to highlight to the committee, in terms of—you know, you might ask, what are potential solutions to these problems and approaches that can be taken? There are multiple approaches that we would recommend, based on our experience, is that—one is we would recommend that IDIQ contracts where, you know, you're contracting for large-dollar services should not be bundled with the small business requirement, that you cannot use those vehicles to meet the small business requirements. They should be contracted through independently, competed through independently, all utilizing the [unintelligible] for manufacturing and services. So that was one solution that we would recommend to contracting that would not just benefit any one company, it would benefit many companies, hence providing a true small business utilization that you're looking for. We

have seen this recently on the IDIQ side, where less than five companies are satisfying, you know, billion-dollar requirements when it should have been done across 50 companies or, you know, 70 companies, or whatever that might be. So this is just a direct experience [unintelligible] specific efforts that we are tracking. I'm not aware of any other efforts. I'm sure the similar things are going on.

MR. GOLD: Hi. Marty Gold. Couple of quick questions. And you probably already have done this [phonetic], but let me ask [unintelligible] questions. Have you—well, first of all, people in the room, [unintelligible] know what IDIQ is? Indefinite Delivery Definite Quantity contract.

MR. PARIKH: Correct.

MR. GOLD: The minimum—what's the minimum threshold on those?

MR. PARIKH: Well, these things are—the ones that I'm talking about have \$2 billion ceilings on them.

MR. GOLD: Yeah, that's the max. Could be—but it's—you know, [unintelligible] over, a 10-year period, 5-year period?

MALE VOICE: Five years, normally.

MR. PARIKH: A five-year period. I think these are 5 to 10 years.

MR. GOLD: All right. Have you been in any interaction with [unintelligible] the Procurement Center representative or the—I'm using the government [unintelligible]—the OSDBU, the Office of Small and Disadvantaged Business Utilization? [unintelligible]—I guess—

MR. PARIKH: [interposing] We are—

MR. GOLD: [unintelligible] DOD.

MR. PARIKH: We are talking to the small business offices, and we are trying to talk to—the historical approach is that, you know, the—if you look at the \$3.5 million services set aside for DOD organizations and \$5.5 million for manufacturing, we are talking to individual program managers, trying to convince them to utilize those vehicles, because a small business office cannot direct a PM, or they can only guide them or provide assistance. But we've been doing that ourselves through various PMs, and where we have relationships in [phonetic] past performance. But 9 out of 10 times, they have chosen to go to that IDIQ vehicle versus go to a small business, even though they have [unintelligible] past performances.

MR. GOLD: All right. Just so you know also, there's been a change in the OSDBU at the DOD level, I guess, what the local Army, Air Force and the Service Branch report to. The gentleman who's there, he used to work in government contracting at the SBA, Tony

Martoccia, so we've hoping he'll be—he's only been there a few weeks—that there'll be a sensitivity. At the SBA, under his program area was the [unintelligible], SDBs, HUBZone, size standards and all the government contracting programs for small businesses, so we're hoping, at least from where we sit [phonetic], that [unintelligible] little more sensitivity to this whole bundling issue.

MR. PARIKH: Correct. So we're seeing this on a massive scale, as I said. And then second, this is we bid through the primes, of course, you know, we still try to participate on those [unintelligible] as subs [phonetic], but in the end, the primes hold the reigns until they choose to give you the subcontract. For example, we bid on two task orders. We have won those task orders, but still, trying to get the money obligated to a sub is very challenging, at best. So what I'm saying is that these vehicles are—you're almost hamstringing the small businesses and limiting their participation indirectly.

MR. GOLD: Has the [unintelligible] certification been useful, not, neutral?

MR. PARIKH: I'm sorry?

MR. GOLD: Has having—being certified AA as an extra tool, has that been useful, not useful, neutral?

MR. PARIKH: Well, so far, I got to tell you, for the last 9 to 10 months, it has not been extremely productive where I would've hoped to be. However, not to say that we are not trying to talk to PMs. We have at least three or four PMs who are evaluating the process and evaluating the thought to do something, but not a single action has been initiated because [unintelligible] today.

MR. GOLD: Okay.

MR. SABATINO: Could I ask a question? This is Sabatino. Are you—

MALE VOICE: [interposing] Has the other gentleman finished?

MR. SABATINO: I would like to ask the question to the gentleman on the line talking.

MR. PARIKH: Sure.

MR. SABATINO: Are you a manufacturer, or are you—provide services?

MR. PARIKH: We provide services right now.

MR. SABATINO: Okay. Well, my understanding—and I've been involved with the headquarters, Navy and most major suppliers to the Navy, most shipyards—you will never see that requirement from a BIW or a—what do you call it? General Dynamics and/or Northrop, because they'll keep that in-house, so you'll never be able to identify it. Because of the short dollars available, they want to keep as much

of their people busy as they can. And where, perhaps you will supply them with services that are much less than their services, that won't even be seen, okay.

MR. PARIKH: Correct.

MR. SABATINO: And I want to give an example, if I may. I spoke with an admiral. I will not name him. I told him that if I could save 5,000 pounds on a Navy vessel and \$250,000 per ship, is that an interesting thing? And by the way, this is a new ship. And he [unintelligible]—this was in a larger group, and he says, “Absolutely. What was the—did you hear from the company? I says, “Yeah, nothing.” He said, “I want to talk to you.” Well, after we broke for a break, I identified the company and identified the system. His answer was, “They’re very powerful with the Navy, yet they’ll remove fuel tanks because of weight restrictions.” So, you know, you’re dealing with powerhouses, and this bundling business is a reality, as the gentleman indicated. It’s going to get much more severe. It will reduce the overall costs, they think—administrative costs in Navy or Army or what have you. And that’s the way it is.

MR. PARIKH: Well, and let me counter that. I want to talk about two sides of the services. There are services that you provide to the government, and then there are services you provide to the hardware production and manufacturing companies.

MR. SABATINO: Yes, sir, uh huh. [unintelligible].

MR. PARIKH: Our focus, predominantly, has been services to the program managers and—

MR. SABATINO: [interposing] I get you.

MR. PARIKH: --the government side. We tend to shy away from the other end of the spectrum because we agree with what you just said, the hardware vendors are not so easy to deal with, right, because they want to keep it in-house and they want to employ their own people. Whereas on the government side, however, if you look at services today—and I’ll give you an example. USR Space [phonetic], for example, released an RFP recently on a \$150 million acquisition. After doing their due diligence for almost five months, and they made a determination that sufficient number of small business are qualified to bid that opportunity, they decided to make that whole solicitation, IDIQ of seven or eight winners, only can be done by small business. Similarly, I can cite example of SPAWAR, Space Naval Warfare Center out of San Diego and Charleston, North Carolina. They did the same thing. They did the same analysis, they came to the same conclusion. My answer is that I think the government services side, the government sector services, not to be confused with production services, should look at this whole model and say, “Are there small businesses that should do all of the government services first before you go full-in an

open competition”? When you go full-in open competition—and typically, if you look at individual program managers, they need 30 to 40 people. They don’t need 500 people. Those individuals PMs can satisfy 90 percent, if not all 100 percent, requirement through a small business. It is our experience—it is—because I’m a retired—14 years in the government. I know the business very well. What I’m saying is that—and so one should look at that and consider that as a first alternative before considering even a large business participation. Completely on the government side, all services should be almost mandated to go to small business. I’m not—I hate to use the word so strongly, but, you know, I think the government deserves—should give the small business opportunity first. This is past experience, and this is my current experience going around.

MALE VOICE: Excuse me, Rajesh?

MR. PARIKH: Uh huh.

MALE VOICE: And I apologize, I don’t know if that’s your first or last name, or if I would’ve said mister, if appropriate.

MR. PARIKH: Rajesh is the first name. That’s fine.

MALE VOICE: Okay. Great. I know you submitted an e-mail to Harry, you sent it onto our Office of the Ombudsman in Washington. Can you also put in there those proposed recommendations [unintelligible]—

MR. PARIKH: [interposing] I did send that in an e-mail to him. Because, unfortunately, I got the form last night, I was rushing out the door. And I did send him an e-mail of my recommendations, and I would be more than happy to meet with someone at the senior level. And I even know the acquisition person for the U.S. Army. I have not sent it to him because I figure I just—this is the better forum.

MALE VOICE: Of course, our [unintelligible] are, you know, unfair regulatory enforcement issues, but we do share stuff with policy people. This will [phonetic] be at the government contracting folks at the SBA. [unintelligible] contacts over there. But I appreciate your comment and your submission of that e-mail.

MR. PARIKH: Okay. And let me just add one comment to this thing. Understand, as a small business, my goal here is not to complain. I’m doing, you know, what I, as a small business, should do. I’m doing my best to market and achieve the business that needs to be achieved. But at the same time, at a policy level, we do see that there are opportunities for the government to do the right thing by small business, and that’s what we feel that—regulatorily, we’ve made four or five recommendations. We would request that people analyze those recommendations and make the appropriate modifications. At the high level, it’s great. But at the lower level, [unintelligible] have to make

that more of a detailed requirement versus a high-level requirement.

MALE VOICE: Okay. Thank you very much.

MR. PARIKH: Okay.

MALE VOICE: Is anyone else joined on the line? If not, there's one gentleman who joined the room here. [unintelligible] like to introduce yourself?

MALE VOICE: [unintelligible].

MALE VOICE: Okay. Thank you, sir.

MR. PARIKH: I'm going to be signing out. This is Rajesh Parikh.

MALE VOICE: Okay. Thank you again. [unintelligible].

MR. PARIKH: Bye-bye.

MALE VOICE: Okay. With that, we've got all the comments that we got, and we appreciate it. We'd like to thank the chamber again for allowing us to use the space.

MALE VOICE: If we have a little time, I'd like to bring an issue up that may or may not be part of this. I had some mild dialogue with Jim Kocsi—

MALE VOICE: [interposing] [unintelligible] transcript?

MALE VOICE: Yeah, it can be public [phonetic], it can be part of the transcript. I was in dialogue with an MB firm that is also a supplier, and the concern that he had was he has a small business loan which, I guess, he received a couple points above what [phonetic] the prime was at the time. And my understanding—and this could be correct or incorrect—is that the rates are not put on it by the SBA, but by the bank. The SBA just guarantees the loan, is that correct?

MALE VOICE: The SBA has limits on the rates that the banks can charge.

MALE VOICE: Okay. They have limits?

MALE VOICE: Yes.

MALE VOICE: Okay.

MALE VOICE: So if the [phonetic] issue, I think—[unintelligible] preempting where you wanted to go, but I guess, when prime started rising rapidly a couple of years ago, there was a concern that the interest rate was too high for an SBA loan, was at the issue?

MALE VOICE: Well, he has a loan, and at the time it was two and a half points what the prime lending rate was at the time. And I guess I had called you and said, "Is there a way to refinance that loan? What are the restrictions? What are the ceiling on some of these? And

can that be reviewed by the SBA [unintelligible] banking”?

MALE VOICE: Well, what we have—I don’t know how many of you are familiar with the SBA loan programs, but I’ve indicated we’re a guarantor of loans that are made for small businesses by our participating lenders, and that two and half over prime is a common percentage that’s used by many of our lending partners. Actually, it can go as high as 2.75 over the prime. But the problem becomes—when that loan was [unintelligible], maybe three or four years ago, prime was very low. Prime today is 8.25. So if you’re looking at 2.5 or 2.25 over prime, now it’s up into the 10 percent-plus number. Unfortunately, what does occur to people when they sign on the dotted line, when they’re closing on these loans, they’re aware, but they’re not aware of the fact that this is floating every quarter, and when prime goes up, you know, their rates go up, when prime goes down, they’re rates go down, and there’s no floor or ceiling. So when we do get a person that’s up against it with regard to cash flow and regard to meeting his obligations to the SBA, as well as to our lending partner directly, the first avenue of approach should be to see if they could maybe convert that to fixed-rate. The bank has the ability to do it. The SBA won’t stand in its way. But should the bank say, “Well, look, we [unintelligible] at 2 over prime, 2.5 over prime, and that’s the way it’s going to stay,” at this point in time, from what I’m being told, there’s a lot of money chasing a lot of deals. They’re very competitive in the banking industry today, and if you bump up against one bank who just is standing a hard line, what we’re recommending is to go shop around. And you’d be surprised, there are people that will take out an SBA loan with a conventional loan, not even with the SBA as guarantee [phonetic]. There are certain restrictions. When a bank wants to turn around and take out another bank that has an SBA-guaranteed loan, they have to meet certain requirements. I won’t get into that. But I think what we [phonetic] need to do is, if we have that small businessperson that’s carrying [phonetic] some cash flow problems, reach out to me and then I’ll put ‘em in touch with somebody, and we’ll give ‘em some names of some people, and we may be able to help ‘em out. But unfortunately, with the—you know [phonetic], prime has been stable for, I guess, close to a year now, year and a half, but before that it was going up 0.25 point every couple months, and we did hear a lot of complaints from some, you know, borrowers who were saying, “My payment used to be \$2,000, now it’s \$2,700 and, you know, it’s starting to be a problem.” But I can intercede on that [unintelligible]. Give me the person’s name and I’ll reach out to ‘em personally on that.

MALE VOICE: Okay. Thank you.

MALE VOICE: Thank you.

MALE VOICE: I’d like to thank our federal partners [unintelligible] today, showing [phonetic] the flag. Appreciate it.

MALE VOICE: Now, I know that—Harry, I believe you have a list of everybody that came in, right?

MR. MENTA: Yes.

MALE VOICE: I think it maybe would be beneficial if we could send, via e-mail, that list to everyone here. This way you have partners that you could reach out to. Like, nobody raised an issue about the IRS.

MALE VOICE: I'm okay with that.

MALE VOICE: Yeah, but, you know, taxpayer advocate, you know, with the IRS, [unintelligible] you now have a name and phone number that you could, you know, point somebody to. What if it's an EEOC matter? We [phonetic] have someone here from the EEOC, other agencies as well. OSHA is here. You know, we do have an opportunity to, I guess, build up your Rolodex file a little bit for the aspect of helping a client out. And yeah [phonetic], so we'll do that as well. So if we didn't capture the e-mail addresses—that's the easiest way to send out everything today—if you could just leave a business card, and we'll make sure that everybody gets copied on, the attendees and then, you know, we'll all have some names and numbers that we could use in the future.

MALE VOICE: Okay. With that, we conclude it. Thank you very much.

MALE VOICE: And again, thank you for coming.

MALE VOICE: Thank you. Bye.

[END TAPE MonmouthJunction,NJ]